

## Summertime R&R can turn into AWOL

July 14th, 2014 By Neil A.G. McPhie, Esq.

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For many federal employees, summer is the time to get some much needed rest and relaxation. They place a premium on this vacation time. In fact, a 2008 Merit Systems Protection Board (MSPB) survey of new hires found that 94 percent of respondents viewed vacation time as important to a job offer, beating out the percentage of respondents who said the same about health insurance and 401(k) or fixed pension plans. But while serving as chairman of the Merit Systems Protection Board (MSPB), I came across cases involving employees who took their love of vacations too far, making their R&R turn into AWOL. Vacations often turn into absences without leave when employees flat out ignore an agency's denial of requested vacation time, they try to run around leave-requesting procedures, or they feign illness to secure leave approval either prior to embarking on a trip or while on one. The threat of an AWOL charge will sometimes not deter employees who are dead set about going on vacation at a certain time. And employees who fail to make leave requests in accordance with procedures and push ahead with their vacation plans often return to work and find an AWOL charge awaiting them. In *Moore v. Department of the Treasury* (2006), the appellant early in the year had indicated on an agency vacation calendar that he wanted time off at the end of the year. Then in December, he came to work two hours late on three days and six and a half hours late on a fourth. Each day he left a message with his manager stating he would be late, but his absences were not approved. On two other days, – days for which the appellant had requested leave and for which leave had been denied – he did not go to work at all. These absences were later included as specifications to an AWOL charge. The appellant claimed the voice mail messages with a contact number he left with his manager entitled him to have his absences approved. But after receiving these messages, the manager could not contact the appellant because his voice message box was full. Regardless, the appellant had been told that leaving a voice mail message did not result in an automatic leave request approval. An MSPB judge, who affirmed the agency's 15-day suspension action, said leaving a number that did not allow the appellant's supervisor to contact him to discuss his leave request, "was tantamount to leaving no number at all." Additionally, "[t]he fact that he may have indicated on the vacation calendar that he desired to be off at the end of the year does not support the conclusion that his request had been approved." Agencies, too, can misinterpret leave procedures and improperly charge employees who went on vacation with AWOL. The appellant in *Fuentes v. Department of Health and Human Services*

(2007), for example, got in trouble because he approached his second-line supervisor about taking a week's vacation. At the time this request was made, the appellant's first-line supervisor was on vacation, and the second-line supervisor responded to him by saying, "all right" and offering to cover his on-call days. The appellant then entered this approved leave in the agency's computerized time and attendance system. Even though the appellant followed agency leave requesting procedures, he was still charged with AWOL because the second-line supervisor said her discussion with the appellant about his vacation plans was mere "colleague-to-colleague coverage." The second-line supervisor claimed she would not have approved such leave because she was not his first-line supervisor. An MSPB judge, however, did not find the second-line supervisor's testimony credible. The judge found the appellant followed the proper leave-requesting procedures, the second-line supervisor was authorized to grant the leave, and the agency failed to prove the AWOL charge. An AWOL charge can quickly undo the benefits of a vacation. But federal employees who have followed the proper leave-requesting procedures should not let agencies reverse their R&R by taking a vacation from their own policy and wrongfully charging AWOL.